

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Providence Church	)	
	District W6, Map 118, Parcel 69	)	Knox County
	<i>Claim of Exemption</i>	)	

INITIAL DECISION AND ORDER

Statement of the Case

This is an appeal pursuant to Tenn. Code Ann. section 67-5-212(b)(2) from the partial denial of an application for exemption of the subject property from ad valorem taxation. The application was filed with the State Board of Equalization ("State Board") on October 14, 2005. By letter dated December 13, 2006, State Board staff attorney Emily Bennett notified the applicant that:

The portion (of the property) approved for exemption includes 5 acres of land and improvements. The effective date of the exemption is October 14, 2005. The remaining acreage has been denied exemption due to non-use. Please re-apply when use begins.

Providence Church of Knoxville, Tennessee ("Providence Church"), the applicant and owner of the property in question, appealed this initial determination to the State Board on March 9, 2006. The undersigned administrative judge conducted a hearing of this matter on May 23, 2007 in Knoxville. Providence Church was represented by W. Tyler Chastain, Esq., of Bernstein, Stair & McAdams, LLP (Knoxville). Attorney Susan Crabtree and Investigator Becky Wuethrich, of the Knox County Law Director's Office, along with Supervisor of Greenbelt/Exemptions Paula Rudder and Director of Appeals Ralph Watson, of the Knox County Property Assessor's Office, appeared on the Assessor's behalf.

Findings of Fact and Conclusions of Law

The approximately 11-acre parcel in question is located at the intersection of Lovell Road and the Pellissippi Parkway. On August 30, 2005, Providence Church purchased this landlocked property from Provision Foundation Incorporated (formerly Vision Fund 2000) for \$3,000,000. A 22,000-square-foot church building and parking lot have been erected on the site.<sup>1</sup>

Providence Church has experienced considerable growth since its inception in 2002. At that time, Administrative Pastor Greg Greer recalled, the institution's active membership

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<sup>1</sup>Providence Church recently graveled additional parking spaces for about 40 vehicles.



numbered about 220 persons. Providence Church now holds several worship services per week; and the average attendance has nearly quadrupled.

At issue in this appeal is the expanse of unimproved land lying between the church building and part of a residential subdivision. See Exhibits 1 and 2. Pastor Greer testified that Providence Church has yet to formulate a master plan for development of this area.<sup>2</sup> He stressed, however, that the institution has not permitted any use of such land that was not related to its mission. The Church's own usage of such acreage has been mainly limited to a one-week "Camp Kid Stuff" (akin to vacation bible school) and other youth activities.

Article II, section 28 of the Tennessee Constitution permits the legislature to exempt from taxation property which is "held and used for purposes purely religious, charitable, scientific, literary, or educational." Under this authority, the General Assembly has enacted a law stating that:

There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific, or nonprofit educational institution which is occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists...; provided..., that no property shall be totally exempted, nor shall any portion thereof be pro rata exempted, unless such property or portion thereof is **actually** used purely and exclusively for religious, charitable, scientific or educational purposes. [Emphasis added.]

Tenn. Code Ann. section 67-5-212(a)(1)(A).

The State Board has adopted rules which prescribe criteria for exemption of land owned by qualifying institutions such as Providence Church. State Board Rule 0600-8-.02 establishes a presumption that such land is in actual use for exempt purposes if it underlies "exempt structures or paving," or if "the total land area claimed for exemption, including that which is underlying exempt structures, is five acres or less." Paragraph (3) of that Rule provides (in relevant part) that:

The applicant for exemption may rebut the presumption by proving that vacant land which would be denied exemption under the presumption is in fact being **regularly** used for exempt purposes qualifying for exemption in accordance with law. [Emphasis added.]

In this state, contrary to most other jurisdictions, property tax exemptions are liberally construed in favor of religious, charitable, scientific, and educational institutions. See, e.g., George Peabody College for Teachers v. State Board of Equalization, 407 S.W.2d 443 (Tenn. 1966). Yet it is not enough for the applicant merely to show that the property in question has

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<sup>2</sup>In response to an inquiry of the State Board designee, Pastor Greer stated in a letter of February 6, 2006 that the acreage not devoted to the church building, parking lot, and recreation was "not being used."



not been put to a *non*-exempt use. Nor may exemption under Tenn. Code Ann. section 67-5-212 be predicated on the owning institution's proposed future use(s) of the property in question. See Oak Ridge Hospital of Methodist Church, Inc. v. City of Oak Ridge, 420 S.W.2d 583 (Tenn. Ct. App. 1967). Rather, the owning institution must demonstrate that it actually uses such property in a manner which is "directly incidental to or an integral part of" an exempt purpose of the institution. Methodist Hospitals of Memphis v. Assessment Appeals Commission, 669 S.W.2d 305 at 307 (Tenn. 1984).

Albeit somewhat indirectly, Rule 0600-8-.02 "establishes a presumption *against* exemption of more than five acres of land associated with an exempt improvement (such as a church building)." Metropolitan Tabernacle, Inc. (Hamilton County, Claim of Exemption, Initial Decision and Order, March 28, 2007), p. 3. In the opinion of the administrative judge, the evidence adduced in the instant case is not sufficient to overcome this presumption. Based on Pastor Greer's testimony, the appellant's usage of the unapproved acreage would more accurately be described as "occasional" or "sporadic" than regular. Indeed, the aerial and other photographs in the record indicate that a substantial portion of such acreage consists of fairly rough terrain which would probably not be very suitable for more intensive use in its present condition.<sup>3</sup>

#### Order

It is, therefore, ORDERED that the initial determination of the State Board's staff attorney be affirmed.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The

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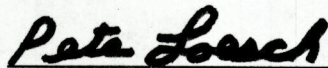
<sup>3</sup>The Assessor has appraised the unapproved land on the subject parcel at \$234,600 for tax year 2007. On the appeal form, Pastor Greer estimated the value of the entire tract to be \$800,000.



petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 11<sup>th</sup> day of June, 2007.



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PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: W. Tyler Chastain, Attorney, Bernstein Stair & McAdams, LLP  
Susan E. Crabtree, Knox County Deputy Law Director  
Paula Rudder, Supervisor of Greenbelt/Exemptions, Knox County Assessor's Office

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